

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOSEPH A. KINSELLA, as Administrator
and personal representative of the
Estate of Katherine Kinsella, and
JOSEPH A. KINSELLA, individually and
on behalf of all distributes of
KATHERINE KINSELLA, deceased
Plaintiffs,

CIVIL ACTION
NO. 04-11615-NMG

VS.

WYMAN CHARTER CORP., ET AL,
Defendants.

JOSEPH A. KINSELLA, as Administrator
and personal representative of the
Estate of Katherine Kinsella, and
JOSEPH A. KINSELLA, individually and
on behalf of all distributes of
KATHERINE KINSELLA, deceased
Plaintiffs,

CIVIL ACTION
NO. 05-10232-NMG

VS.

INSURANCE COMPANY OF NORTH AMERICA,
ET AL,
Defendants.

DEFENDANT, MICHAEL P. WYMAN'S, OPPOSITION
TO MOTION TO CONSOLIDATE CIVIL ACTIONS

Now comes the defendant, Michael P. Wyman, in the above
entitled action, by his attorney, and files its opposition to
the Shore defendants Motion to Consolidate Civil Actions.

This matter involves two (2) civil actions. One, Civil
Action number 04-11615-NMG, for liability as a result of the

death of decedent Katherine Kinsella. The second action, Civil Action number 05-10232-NMG, involves a Declaratory Judgment action brought against various insurers for coverage. The Shore defendants have moved this Honorable Court to consolidate the two (2) civil actions, on the basis of judicial economy.

Consolidation is governed by Rule 42, which is permissive and discretionary with the Court. *In re PRI Automation, Inc. Security Litigation*, 145 F.Supp. 2d 138 (D.Ma. 2001). Here, there are different parties involved, different issues of law, and different operative facts. Accordingly, defendant, Michael P. Wyman, prays this Honorable Court deny the Motion to Consolidate Civil Actions. See, *McDermott, Inc. v. Industrial Risk Insurers*, 2003 WL 21362330 (E.D.La. 2003), a copy of which is attached hereto.

WHEREFORE, defendant, Michael P. Wyman, prays this Honorable Court deny the Motion to Consolidate Civil Actions.

By its attorneys,

CLINTON & MUZYKA, P.C.

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